

(A)

IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA ex rel.)
JEROME HENDRICKS,)
)
Petitioner,)
)
vs.)
)
DON HULICK, Warden,)
)
Respondent.)

FILED
Jun 13. 2008
JUN 13 2008 EA

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT,

No. 08 C 1589

The Honorable
Matthew F. Kennelly,
Judge Presiding.

TO THE CLERK OF THE UNITED STATES DISTRICT COURT

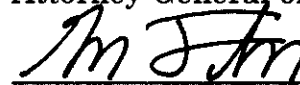
In compliance with Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts, and this Court's order of May 29, 2008, respondent files the attached transcript of trial court proceedings in *People v. Hendricks*, No. 88-CR-12517, in support of respondent's Motion to Dismiss the above-captioned petition for writ of habeas corpus.

June 13, 2008

Respectfully submitted,

LISA MADIGAN
Attorney General of Illinois

By:



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CCCR-310

95-474

**Transcript of Record
Appeal
to**

APPELLATE **Court of Illinois**
FIRST **District**

SUPPLEMENTAL RECORD

Circuit Court No. 88 CR 12517

Trial Judge LEO HOLT

Reviewing Court No. 95-0474

THE PEOPLE OF THE STATE OF ILLINOIS

FILED
APPEL

JUL 15 1996

GILBERT S. MARCHEL
CLERK

VS.

JEROME HENDRICKS

from
CIRCUIT COURT
of
COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION

ORDER ENTERED
JAN 17 2007
APPELLATE COURT, FIRST DISTRICT

AURELIA PUCINSKI

Clerk of Court

VOLUME ONE OF FIVE VOLUMES
SUPPLEMENTAL RECORD

Per AP/nd

Deputy

RA

UNITED STATES OF AMERICA

State of Illinois)
Cook County) ss.

Pleas, before a branch of the Circuit Court of Cook County, in said County and
State, begun and held at the Circuit Court, in said County,
one thousand nine hundred and NINETY SIX AND OF THE INDEPENDENCE
OF THE UNITED STATES OF AMERICA, TWO HUNDRED AND NINETEENTH YEAR.

Present: Honorable

THOMAS R. FITZGERALD.....Judge of the Circuit Court of Cook County

JACK M. O'MALLEY.....State's Attorney

MICHAEL F. SHEAHAN.....Sheriff of Cook County

AURELIA PUCINSKI.....Clerk

Attest:

And afterwards, to-wit: on

JUNE 26 , 19 96 , there was RECEIVED and FILED

**in the Office of the Clerk of the Circuit Court of Cook County, Illinois. COUNTY DEPARTMENT,
CRIMINAL DIVISION, A (ONE) VOLUME SUPPLEMENTAL RECORD CONSISTING OF (EXHIBITS) ONLY.
AN INFORMATION GEN. NO. 88 CR 12517 FOLLOWING TO WIT:**

FILED

1 STATE OF ILLINOIS)
2 COUNTY OF C O O K) SS.

3 IN THE CIRCUIT COURT OF COOK COUNTY
4 COUNTY DEPARTMENT-CRIMINAL DIVISION

5 THE PEOPLE OF THE
6 STATE OF ILLINOIS)

7 V)

No. 88 CR 12517

8 JEROME HENDRICKS)

9 REPORT OF PROCEEDINGS had in the above entitled
10 cause, before the Honorable LEO E. HOLT, Judge of said
11 court, on the 19th day of February, A.D., 1991.

12 APPEARANCES:

13 HON. JACK O'MALLEY,
14 State's Attorney of Cook County, by
15 MR. JOHN MURPHY and
16 MR. SCOTT CASSIDY,
17 Assistant State's Attorneys,
18 appeared for The People;

19 MR. RANDOLPH STONE,
20 Public Defender of Cook County, by
21 MS. MARIJANE PLACEK,
22 Assistant Public Defender,
23 appeared for The Defendant.
24

ck7

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1 THE CLERK: Sheet 7, Line 20, Jerome
2 Hendricks, in custody.

3 (Defendant Present)

4 THE COURT: All right. Both sides ready?

5 MR. MURPHY: Yes, Judge, we are ready.

6 THE COURT: Call your next witness.

7 MR. MURPHY: The State would be recalling
8 Michael Baker.

9 MS. PLACEK: Objection.

10 THE COURT: No, the objection is overruled at
11 this time. You may proceed.

12 MR. MURPHY: Thank you, Judge.

13 M I C H A E L B A K E R,

14 called as a witness on behalf of The People of the State
15 of Illinois, having been first duly sworn, was examined
16 and testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Murphy:

19 Q Detective Baker, you have already testified
20 in this trial, is that correct?

21 A That's correct.

22 Q And you have already identified the
23 defendant in open court?

24 A Yes, I have.

1 Q For the record please identify him
2 again and indicate an article of clothing.

3 A Wearing the gray suit. (Indicating)

4 MR. MURPHY: For the record the in-court
5 identification of the defendant?

6 THE COURT: The record may so reflect.

7 MR. MURPHY: Detective Baker, at any time when
8 you spoke to the defendant did he ever tell you what
9 his date of birth was?

10 A Yes.

11 MS. PLACEK: Objection.

12 THE COURT: What's the objection?

13 MS. PLACEK: Neither new matter, Judge, to
14 precipitate a recall, nor a fact matter that couldn't
15 have been asked of him at the time, nor surprise as
16 would have come up with other witnesses in this
17 proceeding.

18 THE COURT: No, objection overruled.

19 THE WITNESS: Yes, I did ask him.

20 MR. MURPHY: When was that?

21 A His birthdate is 6 April, 1961.

22 Q And in addition to that did you ever
23 ask the defendant what his address was on the date
24 of August-- Before he came to the police station on

1 August 8th, 1988?

2 MS. PLACEK: Continuing objection as to
3 foundation, Judge.

4 THE COURT: Well, the objection is overruled
5 at this stage. Objection overruled.

6 MR. MURPHY: Did you ask the defendant what
7 his address was?

8 A Yes, I did.

9 Q What, in fact, did he tell you?

10 A He stated--

11 THE COURT: The objection is sustained as to
12 that question. Without foundation.

13 MR. MURPHY: Well, Detective Baker, when did
14 you have this conversation with the defendant?

15 A Area 2 Violent Crimes.

16 Q Approximately what time? What date?

17 A Approximately one A.M. on the 9th.

18 Q And who else was present?

19 A Myself and my partner, Detective Rowan.

20 Q What did the defendant tell you-- Where did
21 the defendant tell you he lived before he came to the
22 police station on August 8th, 1988?

23 MS. PLACEK: Continuing objection.

24 THE COURT: Objection overruled.

1 THE WITNESS: He lived at 255 West 117th
2 Street.

3 MR. MURPHY: No further questions, Judge.

4 THE COURT: Cross?

5 CROSS EXAMINATION

6 By Ms. Placek:

7 Q Detective Baker, am I correct in assuming
8 that you gathered this information at the same time
9 you had your other conversation with the defendant?

10 A Yes, it is.

11 Q And am I correct in assuming that in your
12 report, you wrote a report containing said information?

13 A I don't understand the question.

14 Q Did you write a report?

15 A Yes, I did.

16 Q Did you write a report memorializing the
17 conversation you testified to in court?

18 A You mean his birthdate, address, and what-
19 not?

20 Q Did you write a report concerning the
21 conversation you had with the defendant?

22 A Yes, I did.

23 Q And approximately when did you write that
24 report?

1 A Prior to talking to him.

2 Q When you say-- So, in other words, you wrote
3 a report about the information that you gathered
4 from the defendant before you spoke to him, correct?

5 A As far as his--

6 Q Prior?

7 A As far as his personal information, yes, I
8 did.

9 Q Prior to talking to him, correct?

10 A Yes.

11 Q Thank you.

12 And as to the rest of the report, when did
13 you write the rest of the report?

14 A There was no rest of the report.

15 Q So am I correct in saying all your report
16 dealt with was the name and address?

17 A There is a report dealing with just his
18 personal information, yes.

19 Q Did you write another report?

20 A Yes, I did.

21 Q When did you write that other report?

22 A Approximately one A.M.

23 Q At the same time you were speaking with the
24 defendant?

1 A Yes, I did.

2 Q So you were doing the two things
3 simultaneously, correct?

4 A I did one right after the other.

5 MS. PLACEK: Thank you.

6 That's all, Judge.

7 THE COURT: Redirect?

8 REDIRECT EXAMINATION

9 By Mr. Murphy:

10 Q Detective Baker, the report that you
11 referred to which contains the information with
12 regard to the defendant's date of birth and address,
13 would that be the arrest report?

14 A Arrest report and arrest card.

15 MR. MURPHY: Nothing further, Judge.

16 THE COURT: Recross?

17 MS. PLACEK: Nothing on that.

18 THE COURT: Thank you, Mr. Baker. You may
19 step down.

20 (Witness Excused)

21 MS. PLACEK: I renew my motion to strike,
22 Judge. At this particular time the foundation for the
23 conversation hasn't been established. Per the officer
24 he got the information prior to speaking to the

1 defendant, Judge. The suggestion that this was not
2 gathered either from a foundational conversation is
3 established at any earlier date or, in the alternative,
4 Judge, that it was gathered from some other means
5 not testified to, which would have put it in the
6 realm of hearsay.

7 THE COURT: The objection is overruled. Call
8 your next witness.

9 MR. CASSIDY: Thank you.

10 D R. M A R Y J U M B E L I C.

11 called as a witness on behalf of The People of the State
12 of Illinois, having been first duly sworn, was examined
13 and testified as follows:

14 DIRECT EXAMINATION

15 By Mr. Cassidy:

16 THE COURT: That microphone is on. If you
17 will move it over in front of you, speak directly
18 into it, keep your voice up, we'll all be able to
19 hear you.

20 THE WITNESS: Okay.

21 THE COURT: You may proceed, Mr. Cassidy.

22 MR. CASSIDY: Thank you, Your Honor.

23 State your name and spell your last
24 name.

1 A Yes, Mary I. Jumbelic, J-u-m-b-e-l-i-c.

2 Q What is your occupation?

3 A I'm a forensic pathologist.

4 Q And are you a licensed doctor in the State
5 of Illinois?

6 A Yes.

7 Q And how long have you been so licensed?

8 A Since 1985.

9 Q And can you please tell His Honor where
10 you did your graduate work?

11 A Yes, I attended The University of Maryland
12 in Baltimore County and received my Bachelor of
13 Arts Degree in Biology in 1979. Then I attended the
14 University of Maryland Medical School, where I
15 received my M.D. Degree in 1983.

16 Q Following that, ma'am, did you do an intern-
17 ship?

18 A Yes, I did. I did a general surgery
19 internship at the Union Memorial Hospital in Baltimore
20 for one year and then I transferred into the Pathology
21 Program at the same hospital. I then came to
22 Northwestern University and completed my pathology
23 training.

24 Q What year was that?

1 A 1984.

2 Q What did you do following that then?

3 A Following that I did a year of forensic
4 pathology at The Cook County Medical Examiner's
5 Office.

6 Q And when did you begin employment there?
7 Or what did you do after that?

8 A And then following my fellowship in forensic
9 pathology at the Cook County Medical Examiner's Office,
10 I was hired on staff and I worked there for two
11 additional years.

12 Q And what did you do there?

13 A I was an Assistant Medical Examiner.

14 Q And are you board certified?

15 A Yes, in both anatomical pathology and
16 forensic pathology.

17 Q Please explain to His Honor what it means
18 to be board certified.

19 A Board certification is a process where a
20 physician that is eligible, meaning they did the
21 appropriate number of years training and the appropriate
22 experience, can apply to take an exam which is then
23 given. It's a three day exam with all kinds of
24 questions concerning the specialty being asked in both

1 a written and visual format, and then provided that
2 you answer all the questions appropriately, then
3 you pass and become board certified in that specialty.

4 Q Approximately how many autopsies have you
5 performed with the Cook County Medical Examiner's
6 Office?

7 A Approximately nine hundred and fifty.

8 Q Okay. Have you ever been qualified as
9 an expert in court of law as an expert in forensic
10 pathology before?

11 A Yes.

12 Q And have you ever been qualified as an
13 expert in anatomical pathology?

14 A Yes.

15 MR. CASSIDY: Your Honor, at this time I would
16 pass the witness, or ask the witness be qualified
17 in the area of-- As an expert in forensic pathology.

18 THE COURT: Defense?

19 MS. PLACEK: May I have one moment, Judge?

20 Judge, we ask for a side-bar as to
21 additional information.

22 THE COURT: All right. Mr. Reporter?

23 (The following proceedings were had
24 in Chambers:)

1 THE COURT: All right.

2 MS. PLACEK: Your Honor, the reason for
3 calling for a side-bar was to go into a line of
4 questioning which we recently became aware of. This
5 young lady is no longer with the Medical Examiner's
6 ~~office~~

7 In an attempt over the break in this
8 trial to find out why, we learned-- And again I asked
9 for a side-bar not to embarrass her in the courtroom
10 as to these questions, but the basis is this. We
11 believe Doctor Stein felt she made a misdiagnosis of
12 a sudden infant death syndrome. In other words, she
13 found it to be a homicide in several cases, more than
14 ~~one~~, and he found, in fact, the syndrome, the so-
15 called S.I.D.S. Syndrome, to be present.

16 It would be the defense's intention
17 at this particular time-- And also we believe it
18 would be the foundation of possibly a Brady Motion
19 ~~in this case~~, and I would just ask the State either
20 whether they know of any information, or I also ask
21 the Court, without going into embarrassment of another
22 professional, that is the doctor, whether or not
23 the Court would find this: That is that there was
24 a disagreement to the degree that she, in fact, left the

1 Medical Examiner's Office, where she is no longer
2 at, because of what Doctor Stein called a mis-
3 ~~apprehension~~ And, two, whether the Court would
4 allow me to go into such a questioning at this
5 time as to the expertise.

6 THE COURT: State? I guess it's your
7 witness, Mr. Cassidy, so--

8 MR. CASSIDY: Judge, first of all--

9 THE COURT: But either one of you can respond.

10 MR. CASSIDY: Judge, we don't know why this
11 witness no longer works for the Medical Examiner's
12 Office.

13 THE COURT: Assuming the correctness of
14 what Ms. Placek says, that she is not there either
15 because of a severe disagreement growing out of
16 quote-unquote, and I use the word advisedly, what
17 Doctor Stein considered to be incompetent performance,
18 do you agree or disagree that counsel has a right
19 to inquire into it on cross examination for the
20 purpose of affecting her credibility?

21 MR. CASSIDY: Well, first of all for
22 purposes of being qualified we definitely disagree. It
23 makes no difference. And, secondly, if she is
24 qualified, then just to somehow attack her credibility,

1 we would be objecting because it's really not
2 relevant whether she had a disagreement with another
3 doctor regarding one diagnosis. It's not relevant.

4 THE COURT: Well, if it's just a disagreement,
5 yeah, you're right. If it's a disagreement which is
6 fundamental to employment and brings about a separation
7 of the employ, you may not be right.

8 My understanding is, Mr. Cassidy, is
9 that an expert professional who has had his or her
10 professional competency called into question is a
11 proper subject for cross examination so that the fact
12 finder can have that information in assessing the
13 weight to be given to the testimony that the witness
14 offers in his or her field of expertise.

15 That is what I understand the law to
16 be. Do you have a different understanding? Whether
17 Miss Placek will be able to raise this to that level,
18 I don't know, but that's where I think she's coming
19 from.

20 MR. CASSIDY: Judge, I really don't know.
21 John, do you know?

22 MR. MURPHY: Judge, in other words, you're
23 saying that assuming what counsel says is true, it
24 raises a question as to her competence?

1 THE COURT: It raises a question as to her
2 competence and it may, it may, if Stein said-- And
3 it doesn't have to go quite this far perhaps, but
4 let's assume for the sake of this scenario that
5 Stein said to her, "I will accept your resignation or
6 ~~I'll bring charges for your removal.~~" You are grossly
7 incompetent to work in my office." And she tendered
8 her resignation.

9 That, I think, is relevant evidence
10 for the fact finder to have to then judge what weight
11 to give to the expert testimony that she is going to
12 offer. It doesn't prevent her from giving the
13 testimony, but there-- It should be brought out to
14 help the fact finder weigh it.

15 MR. CASSIDY: Okay.

16 MR. MURPHY: Judge, we would object to this
17 line of questioning.

18 THE COURT: Well--

19 MR. CASSIDY: What I'm saying is, okay. Fine.
20 If that's the understanding, fine. But don't you have
21 to have some type of offer of proof as to how--

22 THE COURT: She's going to have to do something
23 to get to that stage.

24 MR. CASSIDY: Okay.

1 THE COURT: And you know, one of the things
2 that you can get-- You can get to it by saying, "Hey,
3 I have a good faith belief," you know, because I
4 can't simply ask them to lay a foundation, you
5 know; the foundation of the very question she is
6 to put to the witness. And it's like any other area
7 of cross examination. Counsel has an obligation
8 not to cross examine for the purpose of embarrassing
9 the person, and you have to have some kind of good
10 faith belief that what you're doing is proper, and
11 she says she's got that so I'm going to let her--

12 MR. CASSIDY: Judge, is there any-- In
13 that regard, though, I would ask if she has any
14 reports or material. I think we should receive that.

15 THE COURT: Yeah, if they have reports.

16 MR. CASSIDY: Because we don't have any
17 reports.

18 MS. PLACEK: The-- Judge, we have no reports,
19 and this is one of the reasons that we brought this to
20 the Court's attention.

21 We would further state, Judge, that
22 we believe that this is ~~Brady material~~. We would
23 further state, Judge, that we believe since the
24 witness, quite frankly, is being offered by the State,

1 and again I have no reason to either want to
2 embarrass the doctor in public to go into this,
3 Judge, but the suggestion that just because they
4 don't know relieves government action--

5 THE COURT: Well, you're going to have a
6 little uphill crawl on this one. You're going to
7 have to establish something other than a mere
8 suspicion that there is material out there that you
9 should have.

10 MS. PLACEK: The material I would suggest--

11 THE COURT: I'm not going to send them on a
12 fishing expedition.

13 MS. PLACEK: I'm not looking for a fishing
14 expedition, Judge. I believe, Judge-- And, quite
15 frankly, this witness was, I believe, part of a-- The
16 subject of a special. And when I say "special," I
17 use that advisedly, done by Carol Maureen of the
18 Channel 5 News, involving the sudden infant death
19 syndrome.

20 And I believe again that this is
21 what, in fact, lead to the disagreement and the
22 problem with Doctor Stein. And again in no way am
23 I wishing to embarrass a professional or, for that
24 matter, anyone on cross examination, with these sort

1 of accusations.

2 It would be the defense's position,
3 quite frankly, that one, if, in fact, since no
4 curriculum vitae was given to us, in fact, for
5 this witness, that it should have been established,
6 or questions can be asked by the State, to fulfill
7 this information to us.

8 In the alternative, Judge, this, again,
9 being the Medical Examiner's Office, is a governmental
10 body where, quite frankly, we are wondering whether
11 or not, since they are linked by their association with
12 the government to the State's Attorney's Office, that
13 this information should have been either known, or is
14 it known to them through other trials.

15 THE COURT: What information?

16 MS. PLACEK: Known to the Office of the State's
17 Attorney.

18 THE COURT: What information are you talking
19 about?

20 MS. PLACEK: The information, Judge, that
21 somehow she was either fired or asked to resign by
22 Doctor Stein.

23 THE COURT: Well, you're making the assumption
24 that that has happened.

1 MS.PLACEK: Let me put it this way, Judge.
2 One of the ways I was wort of brought in on this, or
3 got to know this information, was from another
4 defense counsel from a trial that took place in
5 Skokie.

6 THE COURT: Then you may very well have to
7 ask her some questions that will bring those things
8 out. I'm not concerned about your embarrassing
9 a witness on trial. Cross examination is designed to
10 discredit a witness. Whether this witness be a
11 professional or not, that's your obligation.

12 But I know of nothing that you have
13 said to me at this point that would lead me to say
14 to the State, "Go out and get this information,
15 whatever it might be, and turn it over." Now, I
16 don't know what we are talking about, and it may
17 very well be that if you put pointed questions to
18 this witness they will be denied categorically and
19 that will be the end of it.

20 Now, you can impeach her, you know,
21 straight out, but--

22 MS.PLACEK: In good faith, Judge, at this-- On
23 this particular issue, and again I'm being totally
24 honest with the Court, other than knowing about the

1 existence of a tape of the documentary, I cannot at
2 this time--

3 THE COURT: Well, if there was a tape shown
4 on the air, it's reachable by subpoena power.

5 MS. PLACEK: That's what I'm trying to get,
6 Judge, yes.

7 THE COURT: So you can cause that to be
8 produced. If it isn't produced by the time this
9 witness gets off the stand, you know, we'll try to
10 deal with that and accommodate it. But that's-- You
11 know, that's something that the station doesn't have
12 a First Amendment Right to hide.

13 MS. PLACEK: No, I understand what you're
14 saying. The point that I'm trying to make to the Court
15 is that the memo or whatever you-- Well, I understand
16 what the Court is getting at.

17 The other objection we have is since
18 there has been no proving of the identity of, in
19 fact, the alleged victim in this case, we would
20 have an objection without waiving same and--

21 THE COURT: We're not at that stage yet.

22 MS. PLACEK: I understand.

23 THE COURT: We will deal with one thing at
24 a time. You are at the point where whether or not you

1 want to cross examine this witness as to her qualifications
2 and then whether you want to proceed with her testimony
3 and do all of your cross examining, or however you
4 want to handle it.

5 MS. PLACEK: Well--

6 THE COURT: My saying that she is qualified
7 to give an opinion doesn't stop you from cross
8 examining her on her qualifications.

9 MS. PLACEK: I understand. The point we
10 just would be making is since there's been no
11 identification of the victim, we would suggest this
12 witness is, at best, testifying at the wrong time
13 and is irrelevant to the case at bar.

14 THE COURT: Well, that's going to be denied.
15 I'm going to let her testify as to what, if anything,
16 she did with the body which she knew to be known by
17 any-- By any-- Well, Johnson, or whatever it might be.
18 Whether that has anything to do with this case or
19 not, we'll see.

20 MS. PLACEK: Okay. Subject to further
21 motion.

22 THE COURT: Okay.

23 MS. PLACEK: Okay. Got it.

24 THE COURT: Let's go.

1 (The following proceedings were had
2 in open court, in the presence and
3 hearing of the witness:)

4 THE COURT: Miss Placek?

5 MS. PLACEK: Yes, Judge.

6 THE COURT: Did you wish to examine the
7 witness?

8 MS. PLACEK: Just a few questions, Judge.

9 THE COURT: Go ahead.

10 MS. PLACEK: Thank you.

11 CROSS EXAMINATION

12 By Ms. Placek:

13 Q Doctor, you stated that you are now
14 certified, correct?

15 A I am board certified.

16 Q Board certified. Were you board certified
17 in 1988?

18 A In 1988? I had received my board
19 certification in anatomical pathology, yes.

20 Q And when you say "anatomical pathology,"
21 I believe that you said that you are board certified
22 currently in both fields, correct?

23 A Yes.

24 Q But in 1988 you were not, correct?

1 A In May of 1988 I had received my
2 anatomical certification, yes.

3 Q Thank you. And that's the only thing
4 you were board certified in in May of 1988?

5 A Right.

6 Q Doctor, let me also ask you this. Am I
7 correct in assuming that you are no longer with the
8 Cook County Medical Examiner's Office?

9 A Yes, that's correct. I'm sorry. If I
10 may?

11 Q Sure.

12 A May just explain something? Because
13 sometimes the dates are a little hard to keep straight
14 in my mind, so I'm just going to go through the time
15 period.

16 Q Do you have your curriculum vitae?

17 A Not with me, no.

18 Q All right.

19 A I did not bring it with me.

20 In 1985 I began my Northwestern University
21 training, and in 1987 I completed that training. Then
22 I began my forensic pathology training at the Cook
23 County Medical Examiner's Office in that year.

24 Q 1985?

1 A 1987.

2 Q I'm sorry. 1987?

3 A Yes.

4 Q So that's a little different than what
5 you-- It's hard to keep these dates in line, correct?

6 A Right. So that's why I'm going through
7 it so I don't make any mistakes right now.

8 Q Fine.

9 A And in '87 I began forensic pathology
10 training at the Cook County Medical Examiner's Office
11 and in June of 1988 I completed that. So I was in--
12 Like I said, I was not board certified. I was board
13 certified in forensic pathology in that year, and
14 in anatomic the year before that. I was board certified
15 in 1988.

16 Q So you were incorrect when you were speaking
17 of the chronological order that you gave to the State's
18 Attorney, am I correct?

19 A No.

20 Q Well, did you tell the State's Attorney
21 when he was asking you questions about that, the
22 exact same thing?

23 A He didn't ask me what date I was board
24 certified.

1 Q I'm not talking about board certified.
2 I'm talking about the chronological order.

3 A No, the chronological order still is
4 the same. It's the same as when I answered the
5 State's Attorney's questions, but I was in error
6 when I just answered your first question, and
7 that's what I wanted to clear up.

8 Q Okay. Let me ask you this, doctor.

9 The reason for leaving the Medical
10 Examiner's Office, am I correct that that might have
11 stemmed from a disagreement which you had with
12 Doctor Stein?

13 A Oh, no, not at all.

14 Q Did you have a disagreement with Doctor
15 Stein dealing with, in fact, the diagnosis of
16 what is normally called sudden infant death syndrome
17 in babies?

18 MR. CASSIDY: Objection, Judge. May I be
19 heard at side-bar?

20 THE COURT: Come forward.

21 MR. CASSIDY: Thank you.

22 (The following sidebar was had outside
23 the hearing of the witness:)

24 MR. CASSIDY: Judge, in our side-bar you told

1 us that your understanding of the law is that proper
2 cross examination would be allowed if someone is
3 terminated as a result of a disagreement or because
4 of-- Now, the witness just testified that she was not
5 terminated as a result of a disagreement with Doctor
6 Stein.

7 Her follow-up question was, "Well, isn't
8 it true that you had a disagreement," and if I under-
9 stood your ruling correctly, Judge, this should only
10 go if she was terminated as a result of a disagreement
11 with someone of higher authority. Now I believe
12 you're allowing counsel's cross examination as to
13 possibly any other disagreements she might have had
14 while she was employed there.

15 THE COURT: No, I'm not going to get into
16 personal disagreements. We're talking about things
17 that relate to this witness's professional performance.

18 MR. CASSIDY: Right.

19 THE COURT: The fact she denies being
20 terminated doesn't foreclose the inquiry. It may
21 ultimately limit the number of-- The number and kinds
22 of questions, but a witness's denying doesn't mean
23 that you can't continue to probe and may ever set
24 her up for impeachment. Now, how are you going to lay

1 a foundation for impeachment if you--

2 MR. CASSIDY: I'm just going by what you
3 told me.

4 THE COURT: Well, if I said that foreclosed
5 any further inquiry, I erred, or you construed what I
6 said too narrowly; one or the other.

7 MR. CASSIDY: Sure.

8 THE COURT: In any event, whichever it was,
9 I'm going to now broaden it and allow her to ask
10 questions that are relevant in this area. The
11 objection is overruled.

12 MR. CASSIDY: Thank you.

13 (The following proceedings were had
14 in the presence and hearing of the
15 witness:)

16 MS. PLACEK: May I continue?

17 THE COURT: You may.

18 MS. PLACEK: Am I correct in saying that you
19 disagreed with Doctor Stein on several diagnoses of
20 what would be known as an S.I.D.S. baby, or sudden
21 infant death syndrome baby?

22 A No, I did not.

23 Q Are you familiar-- Or strike that.

24 I withdraw and I'll rephrase, Judge.

1 Were you a subject, or did you, in
2 fact, take part in a Channel 5 special narrated
3 by Carol Maureen, involving homicide or S.I.D.S.
4 involving the sudden infant death syndrome?

5 A I didn't take part in the television--

6 MR. MURPHY: Objection.

7 THE COURT: Overruled.

8 MS. PLACEK: When you say you didn't take
9 part, to the best of your knowledge were you, in
10 fact, featured or mentioned as part of that television
11 show?

12 MR. MURPHY: Objection.

13 MS. PLACEK: If she knows.

14 THE COURT: Overruled. If she knows she may
15 answer.

16 THE WITNESS: A report that I made was mentioned,
17 yes.

18 MS. PLACEK: As a matter of fact, am I
19 correct in saying that that report that you made was
20 called into question?

21 MR. MURPHY: Objection.

22 THE COURT: Overruled.

23 THE WITNESS: I don't know what you mean.

24 MS. PLACEK: Well, am I not correct that--

1 May I withdraw and rephrase, Judge?

2 Am I correct in saying you saw the
3 show?

4 A I saw a segment of Channel 5 News on
5 television on a nightly basis where, during one of
6 those episodes, my report was mentioned.

7 Q And am I not correct in saying that
8 during those segments of the news you were, in
9 fact, accused of disdiagnoses?

10 MR. CASSIDY: Objection, Judge. By Carol
11 Maureen or--

12 THE COURT: Overruled.

13 MS. PLACEK: Isn't it correct that you were
14 accused of disdiagnoses?

15 A No, I wasn't.

16 Q Isn't it a fact that, in fact, during that
17 report several doctors were brought out as experts
18 looking as to your work in those cases?

19 MR. MURPHY: Objection, Judge.

20 MR. CASSIDY: Objection, Judge. We don't
21 have the video-tape.

22 MS. PLACEK: Well, Judge--

23 THE COURT: The objection is overruled.

24 MS. PLACEK: Thank you. Isn't it correct

1 that several doctors were brought in to overlook
2 your diagnoses on several cases?

3 A No. In fact, you have it just the
4 opposite. In fact, I was called in to look at other
5 doctors' work and make a report, which I did.

6 Q Was that the Cook County Medical Examiner's
7 Office?

8 A Yes.

9 Q And was that correcting reports of, let's
10 say, your brother doctors of the Cook County Medical
11 Examiner's Office?

12 A No, it wasn't checking their reports. It
13 was reviewing cases as requested by Doctor Stein.

14 Q So am I correct in saying that the Carol
15 Maureen report that we are speaking of was, in fact,
16 critical of the diagnoses of the Cook County Medical
17 Examiner's Office?

18 MR. MURPHY: Objection.

19 THE COURT: The objection is sustained.

20 MS. PLACEK: Would you characterize the
21 tenor of this report as, in fact, critical of the
22 Cook County Medical Examiner's Office?

23 MR. MURPHY: Objection.

24 THE COURT: Objection sustained.

1 MS. PLACEK: Doctor, am I correct in
2 saying that you were not, in fact, called by Channel 5
3 to look over those cases mentioned in this special?

4 MR. MURPHY: Objection, Judge.

5 THE COURT: The objection is sustained.

6 MS. PLACEK: As to what she's done, Judge?

7 THE COURT: Yeah, the objection is sustained.

8 MS. PLACEK: Am I correct in saying that,
9 in fact, the cases that were dealt with in the Channel 5
10 special, if you will, had several reverse diagnoses as to the
11 cause of death?

12 MR. MURPHY: Objection, Judge.

13 THE COURT: Mr. Reporter, can I hear the
14 question again?

15 (Record Read Back)

16 THE COURT: The objection is sustained.

17 MS. PLACEK: When were you called by Doctor
18 Stein-- Strike that.

19 When did you leave the Cook County
20 Medical Examiner's Office?

21 A I'm sorry. When did I what?

22 Q When did you leave?

23 A When did I leave employment there?

24 Q Yes.

1 A In June of 1990.

2 Q When, in fact, was this report aired?

3 A I think it was in April of 1990.

4 Q Now, let me ask you. Were you, in
5 regards to this report, ever contacted by Doctor
6 Stein?

7 A Of course. He asked me to do the report.

8 Q Was that report in fact-- Did that report,
9 in fact, deal with the cause of death?

10 A Yes.

11 Q Was, in fact, the subject matter of that
12 report the changing of certain causes of death?

13 MR. MURPHY: Objection.

14 MS. PLACEK: In the cases examined?

15 MR. MURPHY: Objection, Judge.

16 THE COURT: The objection is sustained.

17 MS. PLACEK: On any of the cases that you
18 reviewed as a result of that report, was the original
19 cause of death changed?

20 MR. MURPHY: Objection.

21 THE COURT: Objection sustained.

22 MS. PLACEK: Did you do any of the cases
23 involved in that report?

24 MR. MURPHY: Objection, Judge.

1 THE COURT: No, the objection is overruled.
2 If the witness understands the question, she may
3 answer.

4 THE WITNESS: Do you mean did I do the
5 autopsies on those cases?

6 MS. PLACEK: Correct.

7 A No, I did not.

8 Q Did you, in fact, change any of the original
9 diagnoses of cause of death in those autopsies?

10 MR. MURPHY: Objection.

11 THE COURT: Sustained.

12 MS. PLACEK: Did the report center on, in
13 fact, the changing from S.I.D.S. to homicide by the
14 Cook County Medical Examiner's Office?

15 MR. MURPHY: Objection.

16 THE COURT: Sustained.

17 MS. PLACEK: Where are you currently working?

18 A I am currently employed as a coroner's
19 physician in Peoria County.

20 Q Are you, in fact, the coroner for Peoria
21 County?

22 A No.

23 Q How many-- In your experience at the
24 time you were working for the Cook County Medical

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1 Examiner's Office, how many autopsies did you
2 perform?

3 A Well, I did approximately nine hundred
4 fifty in the three years of my employment.

5 Q Would it be correct in saying you did
6 approximately three hundred a year?

7 A That seems correct.

8 Q And currently in Peoria how many autopsies
9 do they do a year?

10 A About two hundred and fifty.

11 Q How many do you do a year?

12 A I do them all. Almost all of them.
13 Ninety-five percent of them.

14 Q But you are not the coroner, correct?

15 A No, the coroner is an elected official.

16 Q Did you, yourself, participate in the
17 filming of the report previously mentioned on Channel 5?

18 A No.

19 MR. MURPHY: Objection, Judge.

20 THE COURT: Overruled. The answer may
21 stand.

22 MS. PLACEK: Your answer was no?

23 A Correct.

24 Q Did you appear, to the best of your

1 knowledge, on camera on the report for Channel 5?

2 A No.

3 Q Would it be correct in saying that the
4 report dealt critically with the work of the Cook
5 County Medical Examiner?

6 MR. MURPHY: Objection.

7 THE COURT: Objection sustained.

8 MS. PLACEK: Was Doctor Donaghue mentioned
9 as part of that report?

10 MR. MURPHY: Objection.

11 MS. PLACEK: If she knows.

12 THE COURT: No, overruled.

13 THE WITNESS: I don't know.

14 MR. MURPHY: Judge, if I may, Judge, what's the
15 relevance of another doctor?

16 THE COURT: I don't know, but--

17 MS. PLACEK: Setting down the foundation,
18 Judge.

19 THE COURT: Well, Mr. Murphy, I don't know, but
20 if she can't tie it up, then it--

21 MR. MURPHY: All right.

22 MS. PLACEK: How many autopsies concerning
23 this report were you asked to review?

24 A Five.

1 Q Did they all involve--

2 A I'm sorry. Six.

3 Q Did they all involve homicides?

4 MR. MURPHY: Objection, Judge.

5 THE COURT: Where are you going, Miss Placek?

6 MS. PLACEK: Judge--

7 THE COURT: I'll try to give you some leeway,
8 but--

9 MS. PLACEK: As possible impeachment, Judge,
10 in order to introduce the subject matter of the
11 report. If the Court feels, again, that I can-- If
12 the report becomes available, or necessary to become
13 available, so it can be introduced and then I would
14 have no problem. But I would hate to be precluded from
15 introducing the tape of the report because proper
16 impeachment foundation was not laid.

17 If the Court feels that's been done,
18 Judge, I have no problem.

19 THE COURT: Can I hear the last question
20 again, Mr. Reporter?

21 (Record Read Back)

22 THE COURT: The objection is-- Or there was
23 an objection and the objection is overruled.

24 MR. MURPHY: Judge, I believe the

1 question-- Well, strike that, Judge.

2 THE COURT: Do you understand the question?

3 THE WITNESS: No. Can I have it repeated
4 please?

5 THE COURT: The question is did they all
6 involve homicides.

7 A "They" referring to--

8 MS. PLACEK: The autopsies that you, in fact,
9 reviewed.

10 A In my opinion, yes.

11 Q When you say your opinion, am I correct
12 in saying that your opinion differed from that of
13 the other pathologist?

14 MR. MURPHY: Objection.

15 THE COURT: No, overruled.

16 THE WITNESS: Which other pathologists?

17 MS. PLACEK: The pathologist who performed
18 the six reports that, in fact, you examined.

19 MR. MURPHY: Objection, Judge. Relevance.

20 THE COURT: Overruled.

21 THE WITNESS: Yes and no.

22 MS. PLACEK: Approximately how many reports
23 out of the six that you examined were, in fact, disagreed?

24 MR. MURPHY: Objection, Judge. Judge--

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1 THE COURT: Overruled, Mr. Murphy.

2 MR. MURPHY: Judge, if I may say for the
3 record, we are-- The witness is being asked about
4 five or six cases where she reviewed the work of
5 perhaps of-- Of other medical examiners, other
6 doctors, whatever the case may be, and is totally
7 unrelated to this case. It has no bearing whatsoever
8 on her--

9 THE COURT: Mr. Murphy, the whole of this
10 witness's testimony thus far has been totally
11 unrelated to this case. That is the purpose of
12 this examination at this point, to determine whether
13 or not the witness possesses the qualification to
14 relate anything about this case.

15 So, of course, the entirety of the
16 cross examination at this point is totally unrelated
17 to this case, as was the direct, but it does bear
18 upon her ability and her expertise to testify about
19 this case. That's why it's being received and that's
20 why it's being offered.

21 It may never ever come to the point
22 where the witness, through cross examination, is
23 going to be disclosed to be anything other than
24 what you offered her to be, but that does not mean

1 that the defense doesn't have a right to put the
2 questions, and you say that they are irrelevant
3 because the defendant puts questions that don't
4 directly bear on the case. That is not the law.

5 MR. MURPHY: Judge, at the same time we
6 have a witness being asked questions perhaps to
7 reflect unfavorably on the Medical Examiner's
8 Office or doctors, and again--

9 THE COURT: So far I have sustained objections
10 that talk about the Medical Examiner's Office outside
11 of any connection to this witness, so we are talking
12 about this witness and this witness's relationship
13 to a report that she participated in making in some
14 way. That's all.

15 The objection is overruled.

16 MS. PLACER: May I inquire, Judge?

17 Did you hear the last question? Or do
18 you remember the--

19 A I don't remember the question. Repeat it
20 please.

21 Q To bring you up to date, you stated
22 that you examined approximately six of these reports,
23 correct?

24 A Yes.

1 Q And that your opinion differed on
2 certain ones of those reports, correct? Or a
3 certain number of those reports?

4 A Yes.

5 Q How many did, in fact, your opinion differ
6 on?

7 A Four.

8 Q Am I correct in saying that on the four
9 reports that your opinion differed on, those reports
10 did not originally deal with homicide?

11 A That's correct.

12 Q Am I correct that those four reports dealt
13 with natural causes of death?

14 A That's correct.

15 Q Those were the pathologist conclusions
16 originally, correct?

17 A That's correct.

18 Q Am I correct in saying that you based
19 your opinion not on performing an examination of
20 the body, but rather upon the notes of the previous
21 pathologist?

22 A The autopsy was one aspect of my review.
23 It was only one aspect.

24 Q Am I correct in saying that you didn't

1 perform the-- Or you didn't examine the body in those
2 four cases?

3 A That's correct.

4 Q Am I correct in saying that the majority
5 of those cases were at least six months old at the
6 time that you offered your opinion?

7 A That's correct.

8 MR. MURPHY: Objection.

9 THE COURT: Overruled. The answer will
10 stand.

11 MS. PLACEK: Am I correct that the four,
12 in fact, that you changed your-- Or, excuse me. That
13 you had a different opinion than the original
14 pathologist, had all stemmed from the Cook County
15 Medical Examiner's Office?

16 MR. MURPHY: Objection.

17 THE COURT: No, overruled.

18 THE WITNESS: I'm sorry. Repeat the
19 question.

20 MS. PLACEK: Am I correct in saying that the
21 four autopsies or pathology reports that you had
22 a differing opinion from the examining pathologist,
23 all came from the Cook County Medical Examiner's
24 Office?

1 A That's correct.

2 MS. PLACEK: Thank you. May I have one
3 moment, Judge?

4 THE COURT: You may.

5 MS. PLACEK: Am I correct in saying that
6 the person or persons who were, in fact, the
7 examining forensic pathologists in these four
8 reports, to the best of your knowledge, is still
9 employed and working for the Cook County Medical
10 Examiner's Office?

11 MR. MURPHY: Objection.

12 THE COURT: The objection is sustained.

13 MS. PLACEK: Do you remember as to the four
14 differing reports whether they were made by one
15 doctor, one forensic pathologist, or by a number
16 of forensic pathologists?

17 MR. MURPHY: Objection.

18 THE COURT: Overruled.

19 THE WITNESS: They were different pathologists.

20 MS. PLACEK: How many different pathologists,
21 in fact, were there?

22 A Four.

23 Q Of those four different pathologists, do
24 you have a number of how many still work today, to the

1 best of your knowledge, for the Cook County Medical
2 Examiner's Office?

3 MR. MURPHY: Objection.

4 THE COURT: Sustained.

5 MS. PLACEK: This goes as to, Judge--

6 THE COURT: Sustained, Miss Placek. Put
7 another question.

8 MS. PLACEK: Okay.

9 Am I correct in saying that the four
10 people, the four doctors whose work you reviewed,
11 were likewise forensic pathologists?

12 A I don't know all their qualifications. I'm
13 not sure.

14 Q Do you remember any of their names?

15 MR. MURPHY: Objection.

16 THE COURT: Sustained.

17 MS. PLACEK: Based on the last two Court
18 rulings, Judge, I take it the Court will not allow
19 me to go into either the current--

20 THE COURT: Put a question, Miss Placek, and
21 we'll rule on the objections, if I hear any.

22 MS. PLACEK: Thank you, Judge.

23 Was your changed diagnosis as to these
24 four forwarded to the Office of the State's Attorney?

1 MR. MURPHY: Objection.

2 THE COURT: The objection is sustained.

3 MS. PLACEK: Goes to bias and--

4 THE COURT: Objection sustained.

5 MS. PLACEK: Thank you, Your Honor. Thank
6 you, ma'am.

7 THE COURT: You may proceed, Mr. Cassidy.

8 MR. CASSIDY: Thank you, Your Honor.

9 DIRECT EXAMINATION (Cont)

10 By Mr. Cassidy:

11 Q Doctor Jumbelic, did you have occasion
12 to perform an autopsy on a person you identified as
13 Denise Johnson on August 9th, 1988?

14 A Yes.

15 Q And where was that autopsy performed?

16 A At the Cook County Medical Examiner's
17 Office.

18 Q Please describe for Judge Holt how the
19 body appeared to you when you first saw it on August
20 9th of 1988.

21 A When I first examined the body the body
22 was partially clothed. There was a bra present. There
23 were light colored pants present that were partially
24 pulled down and unzipped. There were light colored

1 underpants on the body, and the body was in an
2 extensive state of postmortem decomposition with
3 extensive maggot infiltration.

4 MS. PLACEK: Excuse me. I'm not--

5 THE COURT: I'm sorry?

6 MS. PLACEK: I'm not objecting to what the
7 lady is saying, but I take it there was a request for
8 qualifications and I take it the Court is finding such?

9 THE COURT: I find her to be qualified.

10 MS. PLACEK: Thank you. I just wanted to
11 protect the record, Judge.

12 THE COURT: All right. I'm not certain that
13 my finding her to be qualified means anything, but
14 you--

15 MS. PLACEK: Well--

16 THE COURT: But she has the requisite
17 expertise to testify to matters in this field.

18 MS. PLACEK: I understand, Judge.

19 THE COURT: Proceed, Mr. Cassidy.

20 MR. CASSIDY: Can you please go on to
21 describe the area of maggot infestation which you began
22 describe?

23 A Yes, as I said, the body was extensively
24 decomposed. There was a drying and parchment change to

1 the skin. A lot of soft tissue of the skin and
2 underlying muscle and soft tissue was gone from
3 the neck area, the genital area, the area surrounding
4 the anus, and there was shoelace ligature tied around
5 the neck, and a black tank-top that was tied also
6 over the top of the shoelace ligature. It was tied
7 around the neck with both knots at the back of the
8 neck.

9 The hands were behind the back with a
10 shoelace ligature tied, wrapped several times around
11 the wrist and tied in a tight fashion.

12 Q Did you notice if this Denise Johnson
13 had any shoes on?

14 A Shoes were brought in with the body. They
15 were a light colored gymshoe with a name written on the
16 inside of the instep of the left shoe, "Denise."

17 Q Does that mean on the outside of the shoe,
18 but on the inside of the--

19 MR. LUPRANO: Objection. Leading.

20 THE COURT: Overruled.

21 THE WITNESS: It's not in the shoe. It's on
22 the outer aspect of the shoe, but on the-- On the instep
23 of the shoe.

24 MR. CASSIDY: Thank you. What did it say?

1 A Denise.

2 Q And the shorts you described, they were
3 unbuttoned in the front?

4 A And unzipped.

5 Q Were they open in any way?

6 A Yes, they were opened.

7 Q Okay. But they weren't pulled down, more
8 or less?

9 A They were pulled down slightly, but not all
10 the way.

11 Q Okay. After first seeing the body then
12 did you do-- Or please tell the Judge then what you
13 did.

14 A Well, I do an external examination, front
15 and back, with the clothes still present on the body,
16 and then I remove the clothes and photograph the
17 body both before and after the clothes are removed,
18 look carefully at the ligatures, cut them away from
19 the knot and they again were photographed both before
20 and after they were removed.

21 After all of this is completed and
22 before anything else is done, X-rays are taken completely
23 of the body from the head all the way down to the
24 feet to see if there is any fractures present in the

1 bones. After that then I begin the internal
2 autopsy examination.

3 Incisions are-- An incision is made
4 in the upper chest and extended down to the abdomen
5 and the skin is reflected. Then the rib cage is
6 cut open and internal organs are looked at, the
7 heart, the lungs, all the organs within the abdominal
8 cavity are looked at in place, and also taken out,
9 weighed, measured to see if they are normal.

10 Any injuries are looked for internally.
11 After that is completed then the head is opened. An
12 incision that goes from ear to ear on the back of
13 the scalp is made, the scalp is reflected forward,
14 the skull cap is then sawed and removed, and then the
15 brain is examined. The dura is stripped off the base
16 of the skull and then the skull itself is looked
17 at carefully.

18 Q Doctor Jumbelic, did you find any evidence
19 of injury?

20 A Well, yes, the ligature was around the
21 neck causing a grooving to be made in the skin that
22 was left on the back of the neck.

23 Q Did you have occasion to measure the
24 grooving that was caused by this?

1 A Yes, it measured zero point two inches in
2 width.

3 Q That would be around the neck?

4 A The skin that was left on the back of the
5 neck showed the grooving. The skin on the front of
6 the neck was decomposed.

7 Q Did you have occasion then to cut the
8 ligature and take it, remove it from the neck?

9 A Yes.

10 Q And after you did that did you have occasion
11 to measure the diameter of the opening of the ligature
12 around the neck?

13 A Yes, it measured three inches. It was
14 very tight.

15 Q All right.

16 A That is the ligature around the neck
17 measured three inches in diameter.

18 Q Regarding the-- There was another ligature
19 around the neck, I believe you testified to, is that
20 correct?

21 A Yes.

22 Q And what did this appear to you to be?

23 A A black tank-top.

24 Q Please tell the Judge the position that was

1 in when you found it.

2 A Yes, that was around the neck, overlying
3 the shoelace ligature, and this was knotted several
4 times also in the back of the neck.

5 Q Did you then also have occasion to look
6 at the ligature that was holding the hands together
7 or the wrist rather?

8 A Yes.

9 Q Did you see any evidence of injury? Or
10 describe how this ligature appeared to you.

11 A Yes, this also was a shoelace ligature. It
12 was wound several times around each wrist and tied
13 tightly, and grooves were present in both the front
14 and back of the wrist from this ligature measuring
15 zero point two inches in width.

16 Q So both of them measured then point two
17 zero inches in width? That is in regards to the injury
18 level?

19 A Yes.

20 Q Did you perform an internal examination
21 then?

22 A Yes.

23 MR. CASSIDY: Okay. May I approach the
24 witness, Judge?

1 THE COURT: You may.

2 MR. CASSIDY: Doctor Jumbelic, I'm showing
3 you a series of photographs. The first one will
4 be People's Exhibit Number 48 for Identification. I
5 ask you to look at that photograph.

6 First of all, do you recognize it?

7 A Yes.

8 Q What do you recognize it to be?

9 A This is a photograph of Case 262,
10 August of '88, left side of the face and neck, showing
11 the black tank-top, ligature around the neck, and
12 showing the state of decomposition and maggot
13 infestation.

14 Q Would that be a photograph of Denise
15 Johnson?

16 A Yes.

17 Q Showing you what's been marked as People's
18 Exhibit Number 49 for Identification, I ask you if
19 you recognize what that photograph depicts?

20 A Yes.

21 Q What does it depict?

22 A This is a front view of the head, chest,
23 and abdomen of Denise Johnson.

24 MR. LUFRANO: Objection to the description of

1 Denise Johnson. That part is hearsay.

2 THE COURT: Overruled.

3 MR. CASSIDY: And, Doctor--

4 MR. LUFRAÑO: Your Honor, may the record
5 reflect we have a continuing objection to the use
6 of that name so we don't have to do it each and
7 every time?

8 THE COURT: The record will so reflect.

9 MR. CASSIDY: People's Exhibit Number 50. Do
10 you recognize that photograph?

11 A Yes, that's a view of the back of Denise
12 Johnson.

13 Q Okay. And what else-- What's depicted on
14 there besides the back?

15 A Well, you can see the back of the neck
16 with the ligature in place.

17 Q And is that how it appeared to be when
18 you received the body?

19 A Yes.

20 Q Showing you what's been marked already
21 as People's Exhibit Number 44, Doctor.

22 A Yes.

23 Q Do you recognize that, or what that
24 depicts?

1 A Yes.

2 Q What is that?

3 A This is a view of the left side of
4 the face and neck of Denise Johnson showing the black
5 tank-top ligature pulled slightly down to expose
6 the shoelace ligature. There is a portion of the
7 loose end of the shoelace ligature across--lying across
8 the face.

9 Q All right. And People's Exhibit Number 50.
10 Do you recognize what that photograph depicts?

11 A Yes.

12 Q What does that depict?

13 A This is a front view of the body showing
14 the bra in place and showing the face and the neck
15 with the black tank-top ligature.

16 Q Now, the bra. Is that how it appeared
17 when the body arrived at the Medical Examiner's
18 Office? Is that in the same position?

19 A Yes.

20 Q Okay. I'm sorry. Excuse me. I'm sorry,
21 Judge. That was Number 51 for the record.

22 THE COURT: All right.

23 MR. CASSIDY: Showing you what's been
24 marked as People's Exhibit Number 41 for Identification.

1 A This is a front view of the abdomen,
2 the female genitalia region, and thighs of Denise
3 Johnson, showing the pants and the underpants in
4 place, as I found them.

5 Q And People's Number 52 for Identification.
6 Do you recognize what that depicts?

7 A Yes.

8 Q What is that?

9 A Okay. This is the right back side of the
10 neck of Denise Johnson showing the tank-top ligature
11 and the shoelace ligature.

12 Q Does that show-- Truly and accurately
13 depict the relationship they had to one another when
14 the body arrived?

15 A No, the black tank-top ligature is pulled
16 down slightly to expose the shoelace ligature. It
17 was overlying it.

18 Q Okay. - And People's Exhibit Number 34 for
19 Identification. Do you recognize that photograph?

20 A Yes.

21 Q What does that depict?

22 A This is looking directly at the back of
23 the neck of Denise Johnson and here the black tank-top
24 ligature is pulled up to expose the shoelace ligature, and

1 both the knots in the black tank-top and the shoelace
2 can be seen.

3 Q Okay. And this is People's Exhibit
4 Number 46 for Identification.

5 A Yes, this is the shoelace ligature after I
6 have cut and removed it from the neck of Denise Johnson.
7 The knot has been kept intact.

8 Q Is that the-- then the ligature you
9 measured and after you cut it, to be three inches
10 in diameter?

11 A Right, the diameter of the knotted portion
12 around the neck.

13 Q Right. And Number 42, doctor. Do you
14 recognize that photograph?

15 A Yes.

16 Q What does that depict?

17 A This is a close-up photograph of the
18 knots in the black tank-top.

19 Q Now showing you People's Number 53. Do you
20 recognize that photograph?

21 A Yes.

22 Q What does that photograph depict?

23 A This is a view of the face of Denise
24 Johnson.

1 Q People's Exhibit Number 54. Do you
2 recognize what that's a photograph of?

3 A Yes.

4 Q What's depicted?

5 A This is looking at the back of the neck
6 from the right side, and it shows the groove in
7 the skin of the neck caused by the shoelace ligature.

8 Q Is that the groove that you measured
9 to point two inches in depth?

10 A In width, yes.

11 Q Okay. People's Exhibit Number 55. Do you
12 recognize that photograph?

13 A Yes.

14 Q What do you recognize that to be?

15 A That's looking directly at the back of
16 the neck showing the groove caused by the shoelace
17 ligature.

18 Q People's Number 36. Do you recognize
19 that photograph?

20 A Yes.

21 Q What do you recognize that to be?

22 A This is a photograph of the back of Denise
23 Johnson showing the hands bound behind the back with the
24 shoelace ligature wrapped around the wrist.

1 Q People's Number 38 for Identification.
2 Do you recognize that photograph?

3 A Yes.

4 Q What's that?

5 A This is a photograph close-up of the
6 ligature that's tied around the wrist showing the
7 tight knot.

8 Q Showing you what's been marked People's
9 Exhibit Number 56 for Identification, do you
10 recognize that photograph?

11 A Yes.

12 Q What do you recognize that to be?

13 A This is a photograph of the wrist showing
14 the grooving caused by the shoelace ligature.

15 Q People's Exhibit Number 57 for Identification.
16 Do you recognize that?

17 A Yes.

18 Q What do you recognize that to be?

19 A This is another view of the wrists again
20 showing the groove in the skin caused by the shoelace
21 ligature.

22 Q People's Exhibit Number 58 for Identification.
23 What do you recognize that to be?

24 A Again this is a different view showing
the grooves caused by the shoelace ligature.

1 Q Okay. People's Exhibit Number 59?

2 A Yes, this is a view of the hands with the
3 shoelace ligature tied tightly around the wrists.

4 Q People's Exhibit Number 60?

5 A This is a slightly different view holding the
6 hands up to expose the knot.

7 Q And finally People's-- The last picture
8 would be People's Exhibit Number 61.

9 A This is a view of the female genitalia
10 area with the thighs spread open, showing the extensive
11 loss of tissue and the heavy maggot infiltration.

12 Q Okay.

13 Do all these photographs which I showed
14 you, Doctor Jumbelic, do they truly and accurately
15 depict the condition of Denise Johnson when she appeared
16 at the Medical Examiner's Office on the date you
17 examined her?

18 A Yes.

19 Q Could you visually determine, by looking
20 at the body visually, determine whether any sexual
21 assault took place?

22 A No, there was extensive loss of tissue
23 in that region. It was impossible to tell if there
24 were any underlying injuries due to the loss of the

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1 tissue because of the maggots.

2 Q And did you reach an opinion, Doctor
3 Jumbelic, within a reasonable degree of medical
4 certainty, as to the cause of death?

5 A Yes.

6 Q What is that opinion?

7 A Denise Johnson died as a result of the
8 ligature strangulation.

9 MR. CASSIDY: Just a moment please, Judge.

10 THE COURT: Yes.

11 MR. CASSIDY: Doctor Jumbelic, was there any
12 evidence of gunshot wounds?

13 A No.

14 Q Any evidence of knife or stabwounds?

15 A No.

16 Q Was there any fractures of any kind?

17 A No.

18 Q Was there any evidence of any disease
19 this twelve year old girl may have had, Denise Johnson?

20 A No.

21 MR. CASSIDY: May I approach the witness
22 again?

23 THE COURT: You may.

24 MR. CASSIDY: Doctor, I believe you previously

1 identified this photograph, is that correct?

2 A Yes.

3 MR. CASSIDY: Judge, for the record I showed
4 her what I thought was People's Exhibit Number 49.
5 It was already marked People's Exhibit Number One.
6

7 THE COURT: All right. Number One?

8 MR. CASSIDY: Yes.

9 THE COURT: Okay. So that means that you
10 had that exhibit marked twice?

11 MR. CASSIDY: Yes.

12 THE COURT: As Number One and 49?

13 MR. CASSIDY: Yes.

14 THE COURT: I will allow it to remain as
15 Number One then, and strike "49."

16 MR. CASSIDY: Okay. Thank you, Your
17 Honor.

18 Doctor, could you determine, or did
19 you see any external bruises on the body?

20 A No, there was extensive decomposition
21 and with that parchment change of the body that I
22 described that it wasn't possible to see any superficial
23 bruises.

24 MR. CASSIDY: No further questions, Judge.

THE COURT: Cross?

1425

1 MS. PLACEK: Very briefly.

2 CROSS EXAMINATION (Cont)

3 By Ms. Placek:

4 Q Doctor, you described certain clothing
5 that the body came in with, correct?

6 A Yes.

7 Q Am I correct in assuming that the date
8 you received or the-- Or would you describe these
9 pants as with the pockets turned out and torn?

10 A Yes.

11 Q Thank you. And did you receive a purse
12 that said "Las Vegas" on it?

13 A No.

14 Q To the best of your knowledge do you know
15 if that was recovered from the scene?

16 A I don't know.

17 Q And do you know a gentleman by the name
18 of Mike Gatto?

19 A Yes.

20 Q Is that, in fact, the gentleman who does
21 the X-rays for the Cook County-- At the time you
22 were working there at the Cook County Medical Examiner?

23 A He's one of the X-ray technicians that we
24 employed at that time, yes.

1 Q And to the best of your knowledge
2 did he take the X-rays in the current issue case?

3 A Yes.

4 Q He did?

5 A To the best of my knowledge, yes.

6 Q Thank you.

7 Doctor, if I was to use the term
8 "autoerotocism," are you familiar with that term?

9 A Yes.

10 Q As a matter of fact, am I correct that
11 often when dealing with teen-agers, pathologists
12 are instructed or know by nature, or within their
13 experience, when you have a strangulation death, to,
14 in fact, look to that as a possible cause of death?

15 A No, that's-- We don't have a hanging death.

16 Q A hanging death, correct?

17 A Right.

18 Q And, quite frankly, autoerotocism, to put
19 it plainly before the Court, is a practice where a
20 person will tighten something around their neck to
21 enhance the sexual experience, correct?

22 A Yes, but you never see it in females.

23 Q Well, it's present, though-- When you say
24 you never, in your experience, am I correct to say that

1 it is, in fact, although more prevalent in males?
2 Or can be prevalent in-- Can be prevalent in females?

3 A I don't know. I never heard of a case.

4 Q You say you never heard of a case. Are
5 you familiar with Adelson's, "The Pathology of a
6 Homicide."

7 A Yes.

8 Q And would you, in fact, state that you
9 read that in-- Well, not in preparation for your
10 testimony here, but as a matter of fact, in preparation
11 for becoming a pathologist?

12 A I don't refer to that book very often, no.

13 Q Well, let me ask you this. Am I correct
14 in assuming that in Adelson's--

15 MR. MURPHY: Objection, Judge. May I approach
16 the bench?

17 THE COURT: You may.

18 MR. MURPHY: Judge, I just make an objection
19 at this time because counsel, I believe, is referring
20 to some treatise which, to my knowledge, there has
21 never been an indication to the State that this would
22 be used at any time. There was no notice given
23 to us that the defense intended to rely on this.
24

MS. PLACEK: Judge, I believe that I can, in

1 fact, use any book to assist me in my cross examination
2 which is recognized within the field, Judge.

3 MR. MURPHY: Judge, we are caught by surprise.
4 We never were aware that this was intended to be used
5 in cross examination. This is the very first time
6 it came up during the trial, while the witness is
7 on the stand.

8 MS. PLACEK: That's correct, Judge. I will
9 conceded that Adelson's was never mentioned in
10 discovery.

11 THE COURT: Not in your answer to discovery?

12 MR. MURPHY: No, it--

13 MS. PLACEK: No, Judge.

14 THE COURT: All right. Ladies and gentlemen,
15 I'm going to take a short recess. You may step off
16 the stand, doctor. Please don't discuss your testimony
17 while--until it is completed. There will be a short
18 recess.

19 MR. CASSIDY: Judge--

20 THE COURT: I'll be in chambers.

21 MR. CASSIDY: All right.

22 THE COURT: Mr. Reporter, please come in
23 chambers.
24

(Whereupon the following proceedings

1030

1 were had in Chambers, outside the
2 presence and hearing of the Witness:)

3 MR. MURPHY: Judge, we are just going to
4 withdraw the objection, in the interest of moving
5 this thing along.

6 THE COURT: All right. That solves that
7 problem.

8 (Whereupon a recess was taken in the
9 above entitled cause, after which the
10 following proceedings were had in
11 open court:)

12 THE COURT: All right.

13 MS. PLACEK: May I continue, Judge?

14 THE COURT: You may.

15 MS. PLACEK: Thank you.

16 Doctor, just before the break I was
17 questioning you about autoeroticism, and I believe
18 that you stated that you had never personally seen a
19 case concerning a female, correct?

20 A Correct.

21 Q And I believe you said that you were
22 familiar with the treatise, Adelson's "Pathology of
23 a Homicide," correct?

24 A Right.

1 Q Would you agree that autoeroticism
2 takes place usually involving boys between the
3 age of nine and fourteen or fifteen?

4 A Yes.

5 Q Would you further agree that although
6 known to occur, such deaths are extremely infrequent
7 among girls or young women?

8 A Yes.

9 MS. PLACEK: Thank you.

10 That's all, Judge. That's my final
11 question as to the doctor. Thank you, doctor.

12 THE COURT: Redirect?

13 MR. CASSIDY: No further questions. Thank
14 you very much.

15 THE COURT: Thank you, doctor. You may step
16 down.

17 THE WITNESS: Thank you.

18 (Witness Excused)

19 THE COURT: Call your next witness.
20
21
22
23
24

ANNA DEMACPOULOS,

called as a witness on behalf of The People of the State of Illinois, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Cassidy:

Q Can you please state your name and spell your last name?

A Anna Demacopoulos, D-e-m-a-c-o-p-o-u-l-o-s.

Q And are you a lawyer?

A Yes, I am.

Q And are you employed by the Cook County State's Attorney's Office?

A Yes, I am.

Q Calling your attention to August 9th of 1988, were you employed as An Assistant State's Attorney?

A Yes, I was.

Q And at approximately quarter to ten, ten o'clock P.M., were you in Area 2, which is located in Chicago, Cook County, Illinois?

A Yes, I was.

Q And did you have occasion to meet a person known to you--made known to you as being Jerome Hendricks?

1 A Yes, I did.

2 Q Do you see him in court today?

3 A Yes, I do.

4 Q Would you point to Jerome?

5 MS. PLACEK: We stipulate she'd point to the
6 defendant.

7 THE COURT: All right.

8 MR. CASSIDY: We accept the stipulation.

9 Now, are-- How were you introduced to
10 Jerome?

11 A When I went to Area 2 Detective Yucaitis and
12 Detective Joanne Ryan and I went into the room together
13 and Detective Yucaitis introduced me to Mr. Hendricks.

14 Q After he introduced you to Mr. Hendricks
15 what then did Detective Yucaitis do?

16 A He left the room.

17 Q Leaving you and Detective Ryan with Mr.
18 Hendricks?

19 A Yes.

20 Q What happened then?

21 A At that time I then introduced myself
22 again to Mr. Hendricks.

23 Q What exactly did you say to him?

24 A I told him my name is Anna Demacopoulos, that

1 I was an Assistant State's Attorney, that I was a
2 lawyer, but not his lawyer, but rather a lawyer that
3 was working with the police.

4 I then explained to him what my
5 duties were as an Assistant State's Attorney. I told
6 him that my job was to interview the witnesses, review
7 the facts of the case, determine who, if anyone, was
8 going to be charged and with what charge.

9 Q After you told him that, what did he say?

10 A I indicated to him I would have-- That he
11 would have an opportunity to speak with me, but before
12 he did that, that I was toing to advise him of his
13 Miranda Rights, and I then advised him of his Miranda
14 Rights.

15 Q And, Miss Demacopoulos, how did you do
16 that?

17 A I did that orally by memory.

18 Q And what did you say to him?

19 A I told him that he had the right to
20 remain silent, that anything he said could be used
21 against him in a court of law. He then indicated to
22 me that he understood that right.

23 I then told him that he had the right
24 to an attorney, and he had the right to an attorney

1 before I questioned him, and he had the right to
2 an attorney during questioning, and he indicated
3 that he understood that.

4 I then told him that if he couldn't
5 afford an attorney, one would be appointed for
6 him by the court, and he told me he understood that.

7 Q After informing him of his Miranda
8 Warnings, did he agree then to talk to you?

9 A Yes, he did.

10 Q Did you then proceed to tell-- Or did he
11 then proceed to tell you orally what occurred?

12 A Yes, he did.

13 Q Okay. And approximately how long then
14 did he give you this oral statement?

15 A I had an oral conversation with him for
16 approximately twenty minutes to a half hour.

17 Q Following this conversation then what, if
18 anything, did you do then?

19 A After I had the conversation with him I
20 then indicated to him that there were different
21 ways that we could memorialize or write down what he
22 had told me. I told him that I could either write
23 down everything that he had said and that he would
24 have an opportunity to then read over the written

1 statement and make any corrections that he wished
2 to make and then sign the statement if he wished to
3 sign it, or I could have a court reporter come in.

4 He then told me that he wasn't going
5 to talk to anybody else but Detective Tyan and myself
6 and he didn't want anybody else in the room. I then
7 asked him if I could write down everything that he
8 said, and he said that would be fine.

9 Q So after he agreed to write down everything,
10 what happened then?

11 A I then left the room. Detective Ryan
12 also left the room. I then went back into the room
13 and I had occasion to have a conversation with
14 Mr. Hendricks alone.

15 Q Just you and Mr. Hendricks?

16 A Yes.

17 Q In the same room?

18 A Yes.

19 Q What, if anything, did you say to him at
20 that time?

21 A I then sat down and asked him whether or
22 not the police had treated him fairly, if he had any
23 complaints, and if he needed anything from me.

24 Q And did he have any complaints?

1 A No, he did not.

2 Q Did he complain of any mistreatment by
3 the police?

4 A No, he did not.

5 Q Did he say whether or not he was fed or
6 not?

7 A Excuse me?

8 Q Did he say whether or not he was fed or
9 whether he was hungry or not?

10 A I believe that he told me he had had
11 something to eat and drink. I then asked him if he
12 wanted a cigarette. I believe I gave him one of my
13 cigarettes.

14 Q After this conversation then what, if
15 anything, did you do?

16 A I then left the room and I went
17 outside and I wrote down what he had told me.

18 Q This is outside the room you wrote this
19 down?

20 A Outside of the room he was in, yes.

21 Q Okay. After writing this down then what,
22 if anything, did you do?

23 A I then went back into the room with
24 Detective Yucaitis and Detective Ryan and myself. I

1 then sat down at the table and indicated to Mr.
2 Hendricks the procedure that we were going to follow
3 at this point.

4 Q What did you tell him?

5 A I showed him the handwritten statement
6 that I had written out. I then read the top portion
7 of the statement, which is basically a fill in the
8 blanks format. After that there is a typewritten
9 form which has what is known as the Miranda Rights.

10 I asked him to read out the Miranda
11 Rights out loud so that I could make sure that he
12 could read and write English.

13 Q When you asked him to read these rights
14 out loud, did he read them out loud?

15 A Yes, he did.

16 Q And did he read them as they appeared on the
17 page?

18 A Yes, he did.

19 Q After he read them out loud, then what
20 if anything happened?

21 A I then indicated to him that if he
22 understood this Miranda Rights and wanted to continue,
23 that he could sign the line underneath the typewritten
24 form, at which time he signed that line.

1 Q Okay. After he signed that line, then
2 what happened?

3 A Thereafter it was my handwriting and I
4 indicated to him that I was going to read the statement
5 out loud to him and he could follow along with me,
6 that he should stop me at any time when there was
7 a correction that needs to be made, and that then we
8 would-- Then we continued on to the statement.

9 After we had read each of the pages
10 and after any corrections had been made, I asked him
11 if everything on the pages was correct and he would
12 initial the bottom of each page and then he signed the
13 last page.

14 Q Okay. Did you, in fact, then read
15 the body of the statement to him?

16 A Yes, I did.

17 Q Did he, in fact, follow as you read it
18 to him?

19 A Yes, he did.

20 Q And did he make any corrections on the--

21 A Yes, he did.

22 Q And did he, in fact, initial each page?

23 A Yes, he did.

24 Q And did he, in fact, sign the last page of

1 the statement at the end?

2 A Yes, he did.

3 Q Who else signed the statement?

4 A I signed the statement, Detective Joanne
5 Ryan signed it, and Detective John Yucaitis signed
6 the statement.

7 MR.CASSIDY: May I approach the witness?

8 THE COURT: You may.

9 MR. CASSIDY: Miss Demacopoulos, showing you
10 what's been marked as People's exhibit Number 49.

11 This is Number 49, Judge.

12 THE COURT: All right.

13 MR. CASSIDY: This will take the place of the
14 other exhibit.

15 THE COURT: All right. Do you understand,
16 Miss Placek? That is 49 now.

17 MS. PLACEK: Right.

18 THE COURT: All right.

19 MR. CASSIDY: Miss Demacopoulos, do you
20 recognize what's been marked People's Exhibit
21 Number 49?

22 A Yes.

23 Q What do you recognize that to be?

24 A This is the original handwritten statement

1 that was written out on the 9th of August at Area 2
2 Violent Crimes.

3 Q Did you have a chance to review that?

4 A Yes, I did.

5 Q Does People's Exhibit Number 49, does
6 that appear to be in the same or substantially the
7 same condition now as it was when you signed it,
8 the defendant signed it, Detective Yucaitis signed it,
9 and Detective Ryan signed it?

10 A Yes, it is.

11 MR. CASSIDY: Judge, at this time I would
12 request that Exhibit Number-- That the identification
13 mark be stricken and the witness be allowed-- That
14 it be made admitted into evidence and the witness be
15 allowed to publish it by reading it into the record.

16 MR. LUFRANO: I think it ought to be in
17 reverse order. I think she ought to read it first
18 and see if it coincides with the copy given to us.

19 THE COURT: I'm not sure that I understand
20 what you're saying, Mr. Lufrano.

21 MR. LUFRANO: He's asking that the identification
22 marks be stricken and it be received into evidence.

23 THE COURT: Right.

24 MR. LUFRANO: There is no way that we can

1 object or not object until we hear it. It purports
2 to be exactly what we have been rendered earlier.

3 MR. CASSIDY: Apparently, if I understand
4 that right, he says she might misread it, is that
5 correct? And then he can cross examine her on it.

6 THE COURT: I would think so.

7 The identification marks will be- - Unless
8 you have some other objection other than that, Mr. Lufrano,
9 the identification marks will be stricken and the
10 exhibit will be admitted into evidence over your
11 objection, and the witness will be allowed to publish
12 the document.

13 MR. CASSIDY: Miss Democopoulos, please
14 read what's been marked as People's Exhibit Number 49,
15 the statement you took from the defendant.

16 A statement of Jerome Hendricks taken
17 9 August, '88 at ten forty-five P.M. at Area 2
18 Interview Room. Present: Detective John Yucaltis, Star 7498
19 Joanne Ryan, Star 4593, ASA Anna Demacopoulos.

20 This statement taken regarding the
21 sexual assault-murder of Denise Johnson which occurred
22 on the 1st of August, '88 at 251 West 117th Street
23 at nine thirty P.M. through twelve o'clock.

24 I understand I have the right to remain

1 silent and anything I say can be used against me in
2 a court of law. I understand that I have the right
3 to talk to a lawyer and have him present with me
4 during questioning, and if I cannot afford to hire a
5 lawyer, one will be appointed by the court to
6 represent me before any questioning. Understanding
7 these rights I wish to give a statement, and then
8 Jerome Hendricks' signature appears.

9 After being advised of his constitutional
10 rights and stating that he understood each of those
11 rights, and after being advised and stating that he
12 understood that I was an Assistant State's Attorney, a
13 lawyer working with the police and not his lawyer,
14 Jerome Hendricks-- And there is a correction that
15 appears there with my initials, agreed to give the
16 following summary, not verbatim, statement.

17 Mr. Hendricks stated that on August 1st,
18 1988 he saw and met a girl that was staying at 11720
19 South Princeton. He stated that he saw-- And there is
20 a correction made with my initials. The girl a few
21 times during the time when she was babysitting over at
22 Carletta's house. He further-- And that concludes
23 page one, with Mr. Hendricks' initials, my initials,
24 Detective Yucaitis' signature on it. He further stated

1 that about nine thirty, when he came out of his house
2 and saw the girl leaning on his fence, as he came
3 out Mr. Hendricks stated that the girl wanted to
4 kiss him, and she started squeezing him.

5 At first Me. Hendricks said no, and
6 started walking away, but the girl followed him to
7 the back. When they were by a car the girl said she
8 wanted to do it with him and be with him. At that
9 time the girl took him over to a car behind 11720
10 and said she wanted to be with him, and took her
11 pants down.

12 Mr. Hendricks stated that he then
13 dropped his pants and stated that he had vaginal sex
14 with her, and a correction appears, from behind. That
15 correcti n was "him," and Mr. Hendricks changed it to
16 "her." My initials appear and his initials appear.

17 He stated that he did not cum at that
18 time. Mr. Hendricks further stated that he then
19 pulled up his pants and started to walk away when
20 the little girl started following him and saying she
21 wanted more. Mr. Hendricks stated that she then
22 followed him and went in the garage.

23 He stated that she told him to come
24 in the garage with him. This garage is next door to

1 Mr. Hendricks' home. He stated that he then-- A
2 correction appears with Mr. Hendricks' initials,
3 went in with her. Again another correction appears
4 with Mr. Hendricks' initials. And that again she
5 took her pants down. Another correction appears
6 with Mr. Hendricks' initials. One leg, and while
7 standing up she bent over.

8 Mr. Hendricks stated that he then
9 dropped his pants and began having vaginal sex with the
10 girl again. That concludes page two, with my signature,
11 Mr. Hendricks' initials, and Detective JoAnne Ryan's
12 initials.

13 While they were having sex Mr. Hendricks
14 said the girl pulled her shirt from off her and--And
15 then a correction appears with the word "back." And
16 pulled it over her head. And a correction appears
17 with Mr. Hendricks' initials.

18 The shirt was completely over her
19 head. The girl then put her hands under Mr. Hendricks'
20 butt and was pulling herself up. Mr. Hendricks said
21 that at one point the girl wanted him, which there's
22 an addition that Mr. Hendricks made with his initials.
23 The girl wanted him to pull on something that was around
24 her face and she wanted him to ride her like a horse, and

1 that ride her like a horse appears in quotations.
2 Those were Mr. Hendricks' words.

3 Mr. Hendricks stated that he didn't
4 know what it was, and that it could have been a
5 rope or her shoelace. Mr. Hendricks said that he
6 did not pull on it, though, because he didn't get
7 into it. Mr. Hendricks stated that she had her
8 hands balled up like she was desperate, like a freak, and
9 the word freak appears in quotations as those being
10 Mr. Hendricks' exact words.

11 Mr. Hendricks stated that he didn't
12 say anything to her and that he-- And a correction
13 appears with his initials. Was grabbing her around
14 her waist and her shoulder. Mr. Hendricks stated
15 that he did cum and that he did cum inside of the
16 girl. After he came Mr. Hendricks stated that he
17 pulled up his pants and left, and that he did not
18 look back to see the girl.

19 He further stated that he knew she
20 did not come out with him. That concludes page three
21 with Mr. Hendricks' initials, my signature, and
22 Detective Ryan's initials.

23 Mr. Hendricks further stated that on
24 Wednesday or Thursday his family was complaining

1 about a smell coming from the garage and that he
2 thought the cat had killed a rat.

3 Mr. Hendricks stated that he was
4 cleaning up around the yard and was going to put some
5 garbage and branches in the garage. When he went
6 into the garage Mr. Hendricks stated that he saw
7 something that looked like a body and he went over to see
8 what it was. He said that it was the same girl that
9 he had sex with and that the shirt was still in the
10 same position over her head.

11 At that time Mr. Hendricks did not
12 want to say anything to anyone because of the trouble
13 he had had in the past. On August 8th, 1968 Mr. Hendricks
14 knew the police were looking for him and so he came
15 down to Area 2 to talk to the police.

16 Mr. Hendricks stated that he was
17 treated well by the police and then-- Then there is a
18 deletion made by myself, Assistant State's Attorney. He
19 also stated that he was not made any promises in return
20 for this statement and was not threatened in any way.

21 Mr. Hendricks stated that he was given
22 two meals to eat and was given water and cigarettes.
23 Mr. Hendricks was allowed-- And that concludes page four.
24 To use the bathroom. Mr. Hendricks appeared to be free

1 of the effects of drugs and alcohol.

2 Mr. Hendricks read this statement out
3 loud with the Assistant State's Attorney. That
4 concludes page five with Mr. Hendricks' signature,
5 my signature, Detective Ryan's signature, and
6 Detective Yucaitis' signature.

7 MR. CASSIDY: No further questions, Judge.

8 THE COURT: Cross?

9 MS. PLACEK: May I proceed?

10 THE COURT: You may proceed.

11 MS. PLACEK: Thank you very much.

12 CROSS EXAMINATION

13 By Ms. Placek:

14 Q Ma'am, when you were a member of the Felony--
15 You were a member of the Felony Review Unit of the
16 State's Attorney's Office, is that correct?

17 A In August of '88, yes.

18 Q Pardon me?

19 A In August of '88 I was, yes.

20 Q Thank you. And as a member of the
21 Felony Review Unit of the State's Attorney's Office
22 this wasn't the first statement that you took, correct?

23 A That was the first handwritten statement
24 that I had taken, yes.

1 Q Well, was this the first time you had
2 ever been confronted, let's say, by a defendant in
3 taking either an oral or written statement by him?

4 A Not the first oral statement, no.

5 Q But this was the first written statement
6 that you took, correct?

7 A The first handwritten statement that I
8 had taken on a murder, yes.

9 Q Well, let me ask you a couple of questions
10 about that.

11 You know that there is a certain
12 procedure used by Felony Review Assistant State's
13 Attorneys when they are, in fact, called by the police
14 for purposes of taking a statement, correct?

15 A There are certain procedures, but each
16 Assistant State's Attorney uses their own discretion.

17 Q Well, in your own discretion in-- Well,
18 I'll withdraw and rephrase. I'll ask you this.

19 When you got to the police station
20 on the date and time in question, did you, in fact,
21 make yourself familiar with the case?

22 A When I first arrived I read some of the
23 police reports that were available and I did talk to
24 Detective Ryan and Detective Yucaitis.

1 Q So would I be correct in saying that
2 you made yourself familiar with the case? Correct?

3 A Yes.

4 Q And you knew certain facts of the case?
5 Correct?

6 A Yes.

7 Q And you knew what you were investigating,
8 correct?

9 A I wasn't investigating. I was there for
10 purposes of interviewing the witnesses.

11 Q I see. So let me ask you this. Other
12 than Jerome Hendricks who else did you speak to that
13 night?

14 A I spoke to some of the witnesses of the
15 family of the victim.

16 Q When you say "witnesses of the family,"
17 could you name them?

18 A I believe one of the girl's names was
19 Paulette, I believe it was.

20 Q Was this a family member?

21 A I believe it was. I'm not sure.

22 Q And who else did you speak to?

23 A I believe I spoke to a Charles Walker.

24 Q Could that have been Michael Walker?

1 A Michael Walker, yes.

2 Q Thank you.

3 And who else did you speak to?

4 A I would have to look at my notes to
5 determine anybody else that I spoke with.

6 Q And that would be your Felony Review
7 notes, correct?

8 A Correct.

9 Q And that would be in your Felony Review
10 folder?

11 A Yes.

12 MS. PLACEK: Judge, at this time I would ask
13 permission to see the State's Attorney's Felony Review
14 folder.

15 THE COURT: What's the purpose?

16 MS. PLACEK: Based on certain lack of memory
17 of this witness, Judge, and also as to the basics
18 of the testimony of what she did prior to speaking
19 to the defendant.

20 THE COURT: Mr. Cassidy, or Mr. Murphy?

21 MR. MURPHY: Judge, we would object.

22 THE COURT: In your judgment, Mr. Murphy, is
23 there any discoverable material contained in that
24 document or in that folder that falls properly within

1 your obligations under fourteen-twelve of The
2 Supreme Court Rules?

3 MR. MURPHY: No, Judge.

4 THE COURT: Do you have any information to
5 the contrary, Miss Placek?

6 MS. PLACEK: From this witness's testimony,
7 Judge.

8 THE COURT: This witness's testimony simply
9 says she made some notes which contains the names of
10 persons in the Felony Review Folder, which may-- What
11 is the-- Is this work product document?

12 MR. MURPHY: That's our position, Judge.

13 THE COURT: How do you deal with that contention,
14 Miss Placek?

15 MS. PLACEK: Our position, Judge, is that
16 privilege, by the witness's testimony, has right now
17 been broken as per the request to say, "I would have
18 to look at my folder to refresh my memory."

19 THE COURT: Well, I don't think so. I don't
20 think so.

21 Do you agree that absent that
22 testimony from this witness that that document
23 is essentially work product?
24

MS. PLACEK: No, Judge.

1 THE COURT: Lawyer's work product?

2 MS. PLACEK: No, Judge.

3 THE COURT: Why not?

4 MS. PLACEK: If I might be allowed to ask
5 one question of the witness?

6 THE COURT: You may.

7 MS. PLACEK: Did you refresh your memory
8 before testifying by using this felony review folder?

9 A For purposes of this statement, no, I
10 did not.

11 Q Did you see this felony review folder
12 before testifying in court today?

13 A I did not see it today, no.

14 Q Did you read it prior to testifying
15 today?

16 A I saw it last week, yes, I did.

17 Q And when you say you saw it last week, am
18 I correct in assuming that you were here in the Markham
19 Courthouse last week for the purpose of testifying?

20 A I was here last Thursday, yes, I was.

21 Q And that was for the purpose of testifying,
22 correct?

23 A Yes.

24 Q And am I correct in saying that you, in fact,

1 looked at that Felony Review folder for the
2 purpose of refreshing your memory as to the case
3 in preparation for your testimony?

4 A I looked at the folder, yes.

5 Q Am I correct-- Was that "yes" to that
6 question?

7 A I did not need any of the information that
8 was in this Felony Review Folder for purposes of this
9 statement, no.

10 Q But you still looked at it?

11 A Correct.

12 MS. PLACEK: Thank you. Thus the basis,
13 Judge.

14 THE COURT: State, is there anything-- Any
15 reason not to turn the document over? If there isn't,
16 why are we, you know, going through this? I'm not
17 ordering you to do it, but I don't think-- I think the
18 law is that if she used it for preparation for her
19 testimony and reviewed it, then it's disclosable.

20 MR. MURPHY: Judge, our position is the
21 same in this case as it would be in any case. Those
22 Felony Review folders are prepared as-- They are work
23 product. They are prepared by the attorneys who are
24 going out and handling the cases.

1 THE COURT: I'm sure that's generally the
2 case, but this witness has used this document in
3 preparation for her testimony. That makes it a
4 different breed of animal.

5 Normally it's not the case, but here
6 the witness used it to prepare for testifying, and that
7 becomes discoverable. Isn't that generally true,
8 Mr. Murphy?

9 The mere fact that it was an attorney's
10 document originally doesn't insulate it from discovery
11 when that attorney takes the witness stand and has
12 used that document to refresh her recollection.
13 If there is material in there which is confidential
14 and non disclosable under any circumstances, I will
15 review it in camera to determine that. Otherwise, I
16 am going to ask you to disclose it.

17 MR. MURPHY: Judge, could we have a two
18 minute recess then?

19 THE COURT: Five minute recess.

20 MR. CASSIDY: Thank you.

21 THE COURT: Miss Demacopoulos, you may
22 step off the witness stand. Please do not discuss
23 your testimony with anyone. As a matter of fact,
24 don't talk to anyone period. All right?

1 THE WITNESS: All right.

2 (Whereupon the following proceedings
3 were had in chambers, outside the
4 presence and hearing of the witness:)

5 THE COURT: All right. How does this
6 document differ from any document that you have in
7 your file that contains your observations about a
8 witness?

9 MS. PLACEK: First of all, Judge, I would
10 object to being here for the simple reason that it
11 was my understanding that, at the close of the proceedings,
12 the--

13 THE COURT: Well, we're past that.

14 MS. PLACEK: If I may make my record? That
15 this was not to be an in camera proceedings. As
16 to the Court's question, I don't know. I haven't
17 seen it. I don't know.

18 THE COURT: Well, I don't know whether this is
19 a work product document or not. I doubt it. I also
20 doubt whether it has any relevance to anything either.

21 All right, gentlemen. On The Handbook
22 of Illinois Evidence, Rule 504.1, page 266, in addition
23 the rule recognizes as privileged certain--as certain
24 matters in preparation for trial: Material prepared

1 by or for a party in preparation for trial, is subject
2 to discovery only if it does not contain or disclose
3 the theories, mental impressions, or litigant's
4 plan of the party's attorney. Strike that. Litigation
5 plans of the party's attorney.

6 The term "work product" is--

7 (Pause)

8 THE COURT: All right. I come to the
9 conclusion that this is not work product. It is
10 simply a recitation of who this witness talked to
11 and what they said, and a very short summary of what
12 those witnesses told Miss Demacoploulos, and that
13 doesn't make it work product.

14 There is absolutely zero in here
15 that suggests any thought products of the lawyer
16 in her capacity as a lawyer one way or the other
17 either in terms of making a decision as to whether
18 a crime had been committed or anything else. It just
19 simply is not there. It's a recitation of a conversation
20 she had with somebody.

21 For those reasons I'm going to disclose
22 it, the document consisting of four pages, which I am
23 told are the inserts into Miss Demacoploulos' so-called
24 Felony Review folder.

1 MS.PLACEK: Thank you, Judge.

2 (Whereupon a recess was taken in the
3 above entitled cause, after which the
4 following proceedings were had in open
5 court:)

6 THE COURT: All right. You may proceed,
7 Miss Placek.

8 MS. PLACEK: Thank you, Judge.

9 Judge, for purposes of the record I
10 believe it will reflect we do have the work product at
11 this time. To save the Court's time what I will do
12 is have my co-counsel read it and then return back
13 to the table in case there are other questions.

14 Now, after talking with the witnesses
15 you also examined police reports, correct?

16 A I examined some of the police reports.

17 Q Would I be correct to say that you
18 examined enough of the reports to, in fact, know
19 that a death was involved in this case?

20 A Yes.

21 Q Now, calling your attention to the statement
22 of the defendant, am I correct in saying that the
23 defendant, in his statement, never spoke of killing
24 the girl?

1 A Mr. Hendricks denied actually killing
2 Denise, yes.

3 Q The way you put it, am I correct that
4 no where within the contents of the statement does
5 it reflect that he was even questioned about the
6 killing of the girl?

7 A I did question him about it, yes, I
8 did.

9 Q Well, let me ask you this.

10 Is that reflected within the statement
11 which was previously marked as State's Exhibit Number
12 49, that you questioned him?

13 A May I have a moment?

14 Q Surely.

15 A On the bottom of page three he indicated
16 to me that he further stated he knew she did not come
17 out with him.

18 Q Is that your interpretation that he said
19 he killed the girl?

20 MR. CASSIDY: Objection, Judge. Argumentative
21 because she never said that he said that.

22 THE COURT: The objection is sustained.

23 MS. PLACEK: Let me ask you this. He knew
24 that she did not come out with him. Did you ask him

1 whether or not by that he meant-- He said he killed
2 the girl?

3 A During my oral conversation with Mr.
4 Hendricks--

5 Q Counsel, did you understand my question?

6 A Yes.

7 Q Did you understand that my question pertained
8 to the part of the statement that you just spoke of?

9 A Yes.

10 Q Does that part of the statement say he
11 did not look back to see the girl? He further stated
12 he knew that she did not come out with him, is that
13 correct?

14 A That's what you're asking me, yes.

15 Q Am I correct in saying that that does not
16 say that Mr. Hendricks, in fact, in any way harmed
17 the girl?

18 A No.

19 Q Am I-- I'm incorrect?

20 A Yes.

21 Q The-- It does say he harmed the girl?

22 A You're--

23 Q In the written statement does it say
24 that Mr. Hendricks harmed the girl?

1 A He raped a twelve year old, yes.

2 Q When you say "raped," did he say she
3 consented? Did she-- In this statement did it
4 contain the words that she consented?

5 MR. CASSIDY: Objection, Judge. Under Illinois
6 law a twelve year old cannot consent. That's a rape.

7 THE COURT: Overruled.

8 MS. PLACEK: Did he say she consented?

9 A In the statement?

10 Q Yes.

11 A In the statement Mr. Hendricks-- This
12 statement is in Mr. Hendricks' words.

13 Q Well, let me talk about this.

14 So, in other words, am I correct in
15 saying that the Office of the State's Attorney will
16 write down what is true and false without any kind
17 of regard?

18 A I don't know what--

19 MR. MURPHY: Objection to that question.

20 THE COURT: Objection is sustained.

21 MS. PLACEK: Well, let me ask you this.

22 When you say it's Mr. Hendricks' words,
23 did Mr. Hendricks say the girl consented to have sex
24 with him?

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A He didn't use those words, no.

Q Did he say the girl wanted to have sex with him?

A Yes.

Q Did he say he hurt the girl in that he killed the girl?

A He would not say the word "killed" to me, no.

Q As a matter of fact, what it says there was that he further stated she did not come out, correct?

A That's what he told me, yes.

Q As a matter of fact, no where on this statement does it say he would not say the word "killed," correct?

A I wrote down what Mr. Hendricks told me to write down, and that's what I put down. When he had the oral conversation with me he denied killing her and that's what I put down.

Q Thank you. He never said that he had secretly confined the girl against her will, did he?

A No one talked like that, no.

Q Did he say anything-- Did he say any words of that accord either in the oral or the

1 written statement?

2 A He told me he took her, that they were
3 in the garage together, and--

4 MS. PLACEK: Motion to strike as non-
5 responsive.

6 MR. CASSIDY: Objection, Judge. The question
7 was phrased, "Or words to that accord," so she's
8 trying to give the words of Mr. Hendricks and--

9 MR. LUFRANO: Objection to counsel trying
10 to put words in his witness's mouth.

11 THE COURT: Well, we don't need both lawyers
12 on the same side objecting.

13 The objection is overruled.

14 MS. PLACEK: Thank you.

15 Did he say that he secretly confined
16 her against her will?

17 A Mr. Hendricks did not use those words,
18 no.

19 Q Did Mr. Hendricks ever say that he did
20 anything to the girl against her will?

21 A He didn't tell me that, no, but--

22 Q He didn't tell you that, correct?

23 A No, no criminal tells me that.

24 Q Well, when you say no criminal tells you

1 that-- Motion to strike "criminal," Judge.

2 THE COURT: That portion of the statement-- Of
3 the answer is stricken.

4 MS. PLACEK: Let me ask you this.

5 Did he ever say that, in fact, he did
6 anything to the girl that she didn't ask him to do?

7 A No, he did not.

8 Q As a matter of fact, he said that he
9 refused to do things that the girl wanted him to do?

10 A That's what he told me, yes.

11 Q Thank you. Let me ask you this. To the
12 best of your knowledge, when Mr. Hendricks said things
13 you wrote it down, correct?

14 A I was not taking notes during the time
15 that I was speaking to him, no.

16 Q Well, to the best of your knowledge,
17 referring again to People's Number 49, is that a
18 correct representation of both the oral and the-- And
19 what Mr. Hendricks told you that day?

20 A About the incident, yes.

21 Q Thank you. Mr. Hendricks used the word
22 "freak" in this statement, correct?

23 A Yes.

24 Q Isn't it correct that you asked him to

1 clarify what he meant by "freak?" Or did you
2 ask him to clarify what he meant?

3 A During the oral statement?

4 Q During the oral or the written statement.

5 A When he was describing the sexual act to
6 me he literally stood up and told me that his-- That
7 her hands were behind him on his butt, and that she
8 was balling up, acting like a freak.

9 Q Did you ask him what he meant by the word
10 "freak?"

11 A No, I did not.

12 Q Didn't Mr. Hendricks, in fact, say to you
13 that freak referred, in fact, to the fact of a sexual
14 practice of putting the shoelace around her neck?

15 A No.

16 Q Did Mr. Hendricks, in fact, tell you that
17 during the sex with the girl her hands were behind
18 him?

19 A He had-- I had him demonstrate it, yes.

20 Q And her hands, speaking of the girl's, were
21 behind him, correct?

22 A Correct.

23 Q Thank you. Isn't it correct that Mr.
24 Hendricks only wished to speak to either you or

1 Detective Ryan?

2 A When I was in the room and I asked him
3 about the court reporter, that's when he indicated
4 to me that he didn't want to talk to anybody else but
5 Detective Ryan and myself.

6 Q Thank you. By the way, Detective Ryan
7 and yourself are both women, correct?

8 A Yes.

9 MS. PLACEK: Thank you.

10 May I have a moment, Judge?

11 THE COURT: Sure.

12 MS. PLACEK: Am I correct in saying that
13 what Mr. Hendricks spoke of in the statement you took
14 on August 9th, 1988, at approximately ten forty-five
15 in the evening, dealt with certain details of the
16 August 1st, 1988 date, correct?

17 You have the statement before you,
18 correct?

19 A Yes.

20 Q Am I correct that no where during the
21 statement-- Am I correct in saying that in no where
22 during the statement that you asked Mr. Hendricks at
23 what time the sex act ended?

24 A Which sex act? The first one or the second one?

1 Q Either one.

2 A No, it's not in this statement.

3 Q Am I correct in saying that at no time--
4 And I'm speaking again as to both sex acts, is it
5 contained within the statement how long this sex
6 act lasted?

7 A The first sex act, no, there is no time
8 period, no.

9 Q Am I correct in saying that you do set a
10 time that it started about at nine thirty, correct?

11 A That's what Mr. Hendricks told me, yes.

12 Q Am I correct that in the statement there
13 is no time as to when Mr. Hendricks allegedly left the
14 garage?

15 A He left the garage after he ejaculated.

16 MS. PLACEK: Motion to strike as not
17 responsive, Judge.

18 MR. CASSIDY: Objection, Judge. The witness
19 answered the question.

20 THE COURT: I hardly think so, Mr. Cassidy.

21 MR. CASSIDY: The witness was asked what time
22 and she's given the time.

23 THE COURT: Well, she's talking about time
24 as we determine it by the clock.